

JIM IRVIN  
COMMISSIONER - CHAIRMAN  
RENZ D. JENNINGS  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER



JACK ROSE  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION

JUN 23 12 24 PM '98

MEMORANDUM

DOCUMENT CONTROL

To: Commissioner-Chairman Jim Irvin  
Commissioner Renz Jennings  
Commissioner Carl Kunasek

RE-00000C-94-0165

From: Jack Rose *JR*  
Executive Secretary

Arizona Corporation Commission  
DOCKETED

Date: June 23, 1998

JUN 23 1998

Subject: MOST RECENT ACCUSATIONS BY COMMISSIONER KUNASEK  
AND JERRY PORTER

DOCKETED BY *JMR*

Earlier this month Jerry Porter and Commissioner Kunasek accused the other two commissioners and myself of violating the state Open Meeting Law and the Commission's ex parte rules. Attached is a copy of a letter from Assistant Attorney General Mary Jane Gregory rejecting the Kunasek Open Meeting complaint. Ms. Gregory states that "(a)fter reviewing the allegations and facts with other members of the Open Meeting Law Enforcement Team, we do not have any evidence to establish a violation of the Open Meeting Law and, absent such evidence, we do not plan to continue with an investigation at this time." In addition, the Attorney General declined to pursue the ex parte accusations based on lack of jurisdiction.

Since leaving the Chairmanship in October, Commissioner Kunasek and Jerry Porter have made over 200 accusations of illegal and improper conduct against the other members of the Commission and Commission employees. Most of those accusations have been so clearly frivolous or so obviously political that it has been unnecessary to waste taxpayer resources to rebut the accusations. This agency has important work to accomplish and cannot afford to divert scarce resources. However, the most recent round of accusations by Porter/Kunasek questions the legitimacy of the electric deregulation process. Given the importance of this massive industrial reorganization, I do not believe that the Commission can afford to ignore these accusations.

While the Commission has been cleared of the Open Meeting accusation, the ex parte accusation is still unresolved. I believe that the public has a right to know if the Commission is violating rules designed to protect the integrity of the process. I recommend that the agency hire outside counsel to investigate the accusations and prepare a written report to the Commission.

Commissioner-Chairman Jim Irvin  
Commissioner Renz Jennings  
Commissioner Carl Kunasek  
June 23, 1998  
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The agency should hire someone with an unquestionable reputation for integrity -- perhaps a retired Arizona Supreme Court Justice like Frank Gordon.

This report could also be used for disciplinary purposes. Mr. Porter has made very specific accusations involving outside parties. I have personally talked to most of those parties and they deny making the accusations attributed to them by Mr. Porter. It should be fairly simple for someone to get to the bottom of all this. If it then turns out that Mr. Porter knowingly and maliciously made fraudulent claims involving outside parties, the Commission can consider appropriate action.

JR:jh

Attachment

cc: Docket Control  
All Parties -- Stranded Cost Docket  
Paul Bullis  
Stuart Brackney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS  
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025  
TELECOPIER : 542-4085

MARY JANE GREGORY, Assistant Attorney General  
Direct: (602) 542-8333 — Main: (602) 542-1610  
Fax No. - (602) 542-4385

June 12, 1998

The Honorable Carl J. Kunasek  
Commissioner  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007-2996

Dear Commissioner Kunasek:

As the Duty Attorney of the Attorney General's Open Meeting Law Enforcement Team for the month of May 1998, I reviewed your May 15, 1998 letter to Attorney General Woods asserting possible violations of the Open Meeting Law by the Arizona Corporation Commission, based on statements allegedly made by the Commission's executive secretary, Jack Rose. I interviewed Mr. Rose to determine whether statements attributed to him reflect violations of the Open Meeting Law. Mr. Rose indicated that he is acquainted with the Commissioners' stands on certain issues from a variety of sources and that his familiarity with the Commissioners' positions on this particular issue does not arise from any activity or conduct violative of the Open Meeting Law. After reviewing the allegations and facts with other members of the Open Meeting Law Enforcement Team, we do not have any evidence to establish a violation of the Open Meeting Law and, absent such evidence, we do not plan to continue with an investigation at this time. However, in the event you acquire specific evidence of an Open Meeting Law violation, please do not hesitate to contact this Office again.

With respect to your allegation of possible improper ex parte communications, the Attorney General's Office does not have jurisdiction to investigate alleged violations of the Corporation Commission's ex parte rule.

Sincerely,

*Mary Jane Gregory*

Mary Jane Gregory  
Assistant Attorney General  
Administrative Law Section

FOR THE OPEN MEETING LAW  
ENFORCEMENT TEAM